

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

HI LUBBOCK, INC.,

Plaintiff,

v.

No. 1:16-CV-00939

CENTURY-NATIONAL INSURANCE  
COMPANY,

Defendant.

**NOTICE OF REMOVAL TO THE  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

TO: UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

COMES NOW Defendant, Century-National Insurance Company, by and through its counsel of record, Butt Thornton & Baehr PC (James H. Johansen and Jay J. Athey) and as grounds for removal to this Court, states as follows:

1. On or about January 15, 2015, Plaintiff filed a Complaint For Breach of Contract and Money Due in the Tenth Judicial District Court, County of Quay, State of New Mexico. This case was docketed as No. D-1010-CV-2016-00073. True and correct copies of the Summons, Complaint, Proof of Mailing, and Docket Sheet are attached as **Exhibit A**.<sup>1</sup>

2. The Plaintiff in the above-referenced action is HI Lubbock, Inc. According to the allegations in the Complaint, HI Lubbock, Inc. is a corporation incorporated in the State of New

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<sup>1</sup>These documents comprise the entirety of the state court file. No other documents will be transmitted separately.

Mexico, with its principal place of business in the State of New Mexico. Plaintiff is formerly known as Ram Kabir, Inc., a New Mexico Corporation d/b/a Hampton Inn, with its principal place of business in the State of New Mexico.

3. Defendant Century-National Insurance Company is a corporation. Its state of incorporation is California, and its principal place of business is the State of California.

4. Complete diversity of citizenship exists between the Plaintiff and Defendant in this case.

5. Century-National Insurance Company was served with Plaintiff's Complaint via mail on July 18, 2016.

6. The Complaint alleges that Defendant Century-National Insurance Company breached the policy of insurance it issued to Plaintiff by failing to pay the damages called for in the policy.

7. The Complaint further alleges that Plaintiff and Defendant HI Lubbock, Inc. have not been able to resolve Plaintiff's Business Income claim submitted after Plaintiff's Hampton Inn was destroyed by fire in July 2014. (Complaint, ¶¶ 4-7.)

8. In describing the relief requested, Plaintiff prays that the Court determine the amounts Plaintiff should be paid by Defendants and states that it is seeking an award of attorneys' fees.

9. On August 15, 2016, Defendant, through its counsel, requested that Plaintiff and its counsel stipulate that it will be claiming less than Seventy-Five Thousand and No/100 Dollars (\$75,000.00) for purposes of diversity jurisdiction. A copy of this letter and the proposed

Stipulation of Fact is attached as **Exhibit B**. Plaintiff and Plaintiff's counsel have not signed the requested stipulation.

10. Plaintiff's Complaint does not state an amount Plaintiff seeks to recover. However, to date, Defendant has paid Plaintiff almost \$5 million under the Policy, including \$525,219.30 in lost business income. Plaintiff previously submitted a claim for \$843,985 in lost business income. Defendant paid an additional approximately \$60,000, based on a 90-day limitation in the policy, so it is anticipated that the claim is approximately \$258,765.70 plus attorneys' fees.

11. Although Defendant does not admit that Plaintiff has been damaged in any amount as the result of the actions of Defendant, based on prior negotiations with Plaintiff, Defendant has a good faith belief the amount in controversy exceeds Seventy-Five Thousand and No/100 Dollars (\$75,000.00).

12. Plaintiff's Complaint is a civil action over which this court has jurisdiction pursuant to 28 U.S.C. §1332 and which is removable by the Defendant under the provisions of 28 U.S.C. §1441 in that:

- (a) The matter in controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs, and
- (b) The matter in controversy is between citizens of different states.

13. This Notice of Removal is filed with this court within thirty (30) days after service of Plaintiff's Complaint.

14. Defendant, immediately upon the filing of this original Notice of Removal, will give written notice of the filing to Plaintiff as required by 28 U.S.C. §1446(D) and file a copy of

this Notice of Removal with the Clerk of the Tenth Judicial District Court, County of Quay, State of New Mexico, the Court from which this action is removed.

15. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11.

WHEREFORE, Century-National Insurance Company respectfully requests that the above-entitled action be removed from the Tenth Judicial District Court, County of Quay, State of New Mexico, to this United States District Court for the District of New Mexico.

Respectfully Submitted,

BUTT THORNTON & BAEHR PC

/s/ James H. Johansen

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I hereby certify that on the 17<sup>th</sup> day of August 2016, I filed the foregoing electronically through the CM/ECF system, which caused the following counsel to be served by e-mail; and electronic means, as more fully reflected on the Notice of Electronic filing:

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*Attorney for Plaintiff*

/s/ James H. Johansen

James H. Johansen